time and money during tax season, but the good news for all of us is that in fact, all taxpayers will benefit, because simple forms cost the IRS less money to process. So we are cutting government spending with the passage of this act. According to the IRS, the government spends 50 percent more processing the standard 1040 than it does processing the short 1040EZ form.

I appreciate Mr. BURNS' leadership on this issue. I also want to thank a constituent of mine, Roland Boucher, for helping to put this issue on the map and for sharing with me a number of ideas which I shared with Congressman BURNS, who led this lightning-strike campaign to craft a bill, bring it to the House floor, and provide relief for seniors in time for the 2005 tax year. Roland Boucher, who is my delegate to the National Silver Haired Congress and Chairman of United Californians for Tax Reform, has been a tireless advocate for this legislation and similar tax reforms in State and local government. And he has sent a message from Orange County, California. Says Roland, "Please tell Congressman BURNS that he is about to make a lot of seniors very happy. We are tired of being denied a simple option for filing our taxes simply because of age. We're tired of being treated as second-class taxpayers just because we've attained a level of wisdom and experience to which others can only aspire."

Representative BURNS' bill is a valuable reform for America's more than 35 million seniors, all of whom are denied the use of the existing 1040EZ form by IRS regulation. Simplicity and a less time-consuming process at tax time could yield enormous benefits, precisely because the IRS has made the current system so difficult. The Tax Foundation estimates that taxpayers spend almost 6 billion hours per year complying with our Federal income tax system at an annual cost of $194 billion. This difficulty in meeting the demands that the law and the IRS have placed upon Americans is on the rise. The Tax Foundation estimates that by 2007 the cost could soar as high as $350 billion.

You might think that almost all of this time and money is spent by huge corporations with their complicated capital structures and multitudinous business operations. Wrong. 45 percent of the costs are borne by individuals. Does this burden fall most heavily on the rich, with their various assets and more complicated financial lives? No. The Tax Foundation discovered that compliance costs are highly regressive. Taxpayers with adjusted gross income of less than $20,000 pay a staggering 4.5 percent of income merely in compliance costs. This is an outrageous and unacceptable bureaucratic tax on all Americans, but today we focus only on the unfair treatment of seniors. For a moment let us all imagine what it must be like to be a retired low-income senior, working hard to make ends meet on a fixed income, and then to have to devote almost 5 percent of that limited income just to figure out how much money you owe the IRS. Talk about adding insult to injury. It's time to cut the hassle tax, the anxiety tax, the confusion tax of having to complete an endless, complicated tax return.

Mr. BURNS and I want simplicity and an end to the enormous compliance tax for all Americans. Today, I am proud to stand with the gentleman from Georgia as he leads the first phase of the campaign—relief for America's millions of senior taxpayers. This reform is long overdue. I thank the gentleman from Georgia for making it happen.

Mr. COLLINS. Mr. Speaker, I rise to state my strong support of H.R. 4109, the Simple Tax for Seniors Act of 2004, which would require the Internal Revenue Service to offer a simplified tax form for America's senior citizens.

I commend my Georgia colleague, Congressman MAX BURNS, for introducing this legislation. This common sense legislation would create a new form entitled "1040–S" that would enable seniors to file their tax returns in less time and in a simpler format. The new form, which would be similar to the 1040EZ, would be available to seniors for their use when they file their 2005 income tax returns.

Under current law, many seniors cannot use Forms 1040A or 1040EZ, because the IRS limits their use to individuals with less than $50,000 in taxable income.

The bill instructs the IRS to make the form available in spite of the receipt of Social Security benefits, interest or dividends, capital gains or losses, or distributions from a qualified retirement plan, annuity, or other deferred payment arrangement. The IRS is also instructed not to establish an income threshold on the form so that seniors with incomes in excess of $50,000 will be permitted to use the simplified form.

I urge all my colleagues to lend a helping hand to America's senior citizens and vote in favor of the Simple Tax for Seniors Act of 2004.

Mr. FOLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Florida (Mr. FOLEY) that the House suspend the rules and pass the bill, H.R. 4109, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. FOLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1086) to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

TITLE I—STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

SEC. 101. SHORT TITLE.

This title may be cited as the "Standards Development Organization Advancement Act of 2003".

SEC. 102. FINDINGS.

The Congress finds the following:

(1) In 1993, the Congress amended and renamed the National Cooperative Research Act of 1984 (now known as the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301 et seq.)) by enacting the National Cooperative Production Amendments of 1993 (Public Law 103–42) to encourage the use of collaborative, procompetitive activity in the form of research and production joint ventures that provide adequate disclosure to the antitrust enforcement agencies about the nature and scope of the activity involved.

(2) Subsequently, in 1995, the Congress in enacting the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) recognized the importance of technical standards developed by voluntary consensus standards bodies to our national economy by requiring the use of such standards to the extent practicable by Federal agencies and by encouraging Federal agency representatives to participate in ongoing standards development activities. The Office of Management and Budget on February 18, 1998, revised Circular A–119 to reflect these changes made in law.

(3) Following enactment of the National Technology Transfer and Advancement Act of 1995, technical standards developed or adopted by voluntary consensus standards bodies have replaced thousands of unique Government standards and specifications allowing the national economy to operate in a more unified fashion.

(4) Having the same technical standards used by Federal agencies and by the private sector permits the Government to avoid the cost of developing duplicative Government standards and to more readily use products and components designed for the commercial marketplace, thereby enhancing quality and safety and reducing costs.

(5) Technical standards are written by hundreds of nonprofit voluntary consensus standards bodies in a nonexclusionary fashion, using thousands of volunteers from the private and public sectors, and are developed under the standards development principles set out in Circular Number A–119, as revised February 18, 1998, of the Office of Management and Budget, including principles that require openness, balance, transparency, consensus, and due process. Such principles provide for—

(A) notice to all parties known to be affected by the particular standards development activity,

(B) the opportunity to participate in standards development or modification,

(C) balancing interests so that standards development activities are not dominated by any single group of interested persons,

(D) readily available access to essential information regarding proposed and final standards,

(E) the requirement that substantial agreement be reached on all material points after the consideration of all views and objections, and

(F) the right to express a position, to have it considered, and to appeal an adverse decision.

(6) There are tens of thousands of voluntary consensus standards available for government use. Most of these standards are kept current through interim amendments and interpretations, issuance of addenda, and periodic reaffirmation, revision, or reissuance every 3 to 5 years.

(7) Standards developed by government entities generally are not subject to challenge under the antitrust laws.

(8) Private developers of the technical standards that are used as Government standards are

often not similarly protected, leaving such developers vulnerable to being named as codefendants in lawsuits even though the likelihood of their being held liable is remote in most cases, and they generally have limited resources to defend themselves in such lawsuits.

(9) Standards development organizations do not stand to benefit from any antitrust violations that might occur in the voluntary consensus standards development process.

(10) As was the case with respect to research and production joint ventures before the passage of the National Cooperative Research and Production Act of 1993, if relief from the threat of liability under the antitrust laws is not granted to voluntary consensus standards bodies, both regarding the development of new standards and efforts to keep existing standards current, such bodies could be forced to cut back on standards development activities at great financial cost both to the Government and to the national economy.

SEC. 103. DEFINITIONS.

Section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301) is amended—

(1) in subsection (a) by adding at the end the following:

''(7) The term 'standards development activity' means any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.

''(8) The term 'standards development organization' means a domestic or international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the Office of Management and Budget Circular Number A–119, as revised February 10, 1998. The term 'standards development organization' shall not, for purposes of this Act, include the parties participating in the standards development organization.

''(9) The term 'technical standard' has the meaning given such term in section 12(d)(4) of the National Technology Transfer and Advancement Act of 1995.

''(10) The term 'voluntary consensus standard' has the meaning given such term in Office of Management and Budget Circular Number A–119, as revised February 10, 1998.''; and

(2) by adding at the end the following:

''(c) The term 'standards development activity' excludes the following activities:

''(1) Exchanging information among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purpose of developing or promulgating a voluntary consensus standard, or using such standard in conformity assessment activities.

''(2) Entering into any agreement or engaging in any other conduct that would allocate a market with a competitor.

''(3) Entering into any agreement or conspiracy that would set or restrain prices of any good or service.''.

SEC. 104. RULE OF REASON STANDARD.

Section 3 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4302) is amended by striking ''of any person in making or performing a contract to carry out a joint venture shall'' and inserting the following: ''of—

''(1) any person in making or performing a contract to carry out a joint venture, or

''(2) a standards development organization while engaged in a standards development activity, shall''.

SEC. 105. LIMITATION ON RECOVERY.

Section 4 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4303) is amended—

(1) in subsections (a)(1), (b)(1), and (c)(1) by inserting '', or for a standards development activity engaged in by a standards development organization against which such claim is made'' after ''joint venture'',

(2) in subsection (e)—

(A) by inserting '', or of a standards development activity engaged in by a standards development organization'' before the period at the end, and

(B) by redesignating such subsection as subsection (f), and

(3) by inserting after subsection (d) the following:

''(e) Subsections (a), (b), and (c) shall not be construed to modify the liability under the antitrust laws of any person (other than a standards development organization) who—

''(1) directly (or through an employee or agent) participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

''(2) is not a fulltime employee of the standards development organization that engaged in such activity, and

''(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.''.

SEC. 106. ATTORNEY FEES.

Section 5 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4304) is amended—

(1) in subsection (a) by inserting '', or of a standards development activity engaged in by a standards development organization'' after ''joint venture'', and

(2) by adding at the end the following:

''(c) Subsections (a) and (b) shall not apply with respect to any person who—

''(1) directly participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

''(2) is not a fulltime employee of a standards development organization that engaged in such activity, and

''(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.''.

SEC. 107. DISCLOSURE OF STANDARDS DEVELOPMENT ACTIVITY.

Section 6 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4305) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(B) by inserting ''(1)'' after ''(a)'', and

(C) by adding at the end the following:

''(2) A standards development organization may, not later than 90 days after commencing a standards development activity engaged in for the purpose of developing or promulgating a voluntary consensus standards or not later than 90 days after the date of the enactment of the Standards Development Organization Advancement Act of 2003, whichever is later, file simultaneously with the Attorney General and the Commission, a written notification disclosing—

''(A) the name and principal place of business of the standards development organization, and

''(B) documents showing the nature and scope of such activity.

Any standards development organization may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4 to standards development activities that are not covered by the initial filing or that have changed significantly since the initial filing.'',

(2) in subsection (b)—

(A) in the 1st sentence by inserting '', or a notice with respect to such standards development activity that identifies the standards development organization engaged in such activity and that describes such activity in general terms'' before the period at the end, and

(B) in the last sentence by inserting ''or available to such organization, as the case may be'' before the period,

(3) in subsection (d)(2) by inserting '', or the standards development activity,'' after ''venture'',

(4) in subsection (e)—

(A) by striking ''person who'' and inserting ''person or standards development organization that'', and

(B) by inserting ''or any standards development organization'' after ''person'' the last place it appears, and

(5) in subsection (g)(1) by inserting ''or standards development organization'' after ''person''.

SEC. 108. RULE OF CONSTRUCTION.

Nothing in this title shall be construed to alter or modify the antitrust treatment under existing law of—

(1) parties participating in standards development activity of standards development organizations within the scope of this title, including the existing standard under which the conduct of the parties is reviewed, regardless of the standard under which the conduct of the standards development organizations in which they participate are reviewed, or

(2) other organizations and parties engaged in standard-setting processes not within the scope of this amendment to the title.

TITLE II—ANTITRUST CRIMINAL PENALTY ENHANCEMENT AND REFORM ACT OF 2003

SEC. 201. SHORT TITLE.

This title may be cited as the ''Antitrust Criminal Penalty Enhancement and Reform Act of 2003''.

Subtitle A—Antitrust Enforcement Enhancements and Cooperation Incentives

SEC. 211. SUNSET.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of sections 211 through 214 shall cease to have effect 5 years after the date of enactment of this Act.

(b) EXCEPTION.—With respect to an applicant who has entered into an antitrust leniency agreement on or before the date on which the provisions of sections 211 through 214 of this subtitle shall cease to have effect, the provisions of sections 211 through 214 of this subtitle shall continue in effect.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) ANTITRUST DIVISION.—The term ''Antitrust Division'' means the United States Department of Justice Antitrust Division.

(2) ANTITRUST LENIENCY AGREEMENT.—The term ''antitrust leniency agreement,'' or ''agreement,'' means a leniency letter agreement, whether conditional or final, between a person and the Antitrust Division pursuant to the Corporate Leniency Policy of the Antitrust Division in effect on the date of execution of the agreement.

(3) ANTITRUST LENIENCY APPLICANT.—The term ''antitrust leniency applicant,'' or ''applicant,'' means, with respect to an antitrust leniency agreement, the person that has entered into the agreement.

(4) CLAIMANT.—The term ''claimant'' means a person or class, that has brought, or on whose behalf has been brought, a civil action alleging a violation of section 1 or 3 of the Sherman Act or any similar State law, except that the term does not include a State or a subdivision of a State with respect to a civil action brought to recover damages sustained by the State or subdivision.

(5) COOPERATING INDIVIDUAL.—The term ''cooperating individual'' means, with respect to an antitrust leniency agreement, a current or former director, officer, or employee of the antitrust leniency applicant who is covered by the agreement.

(6) PERSON.—The term ''person'' has the meaning given it in subsection (a) of the first section of the Clayton Act.

SEC. 213. LIMITATION ON RECOVERY.

(a) IN GENERAL.—Subject to subsection (d), in any civil action alleging a violation of section 1 or 3 of the Sherman Act, or alleging a violation of any similar State law, based on conduct covered by a currently effective antitrust leniency agreement, the amount of damages recovered by or on behalf of a claimant from an antitrust leniency applicant who satisfies the requirements of subsection (b), together with the amounts so recovered from cooperating individuals who satisfy such requirements, shall not exceed that portion of the actual damages sustained by such claimant which is attributable to the commerce done by the applicant in the goods or services affected by the violation.

(b) REQUIREMENTS.—Subject to subsection (c), an antitrust leniency applicant or cooperating individual satisfies the requirements of this subsection with respect to a civil action described in subsection (a) if the court in which the civil action is brought determines, after considering any appropriate pleadings from the claimant, that the applicant or cooperating individual, as the case may be, has provided satisfactory cooperation to the claimant with respect to the civil action, which cooperation shall include—

(1) providing a full account to the claimant of all facts known to the applicant or cooperating individual, as the case may be, that are potentially relevant to the civil action;

(2) furnishing all documents or other items potentially relevant to the civil action that are in the possession, custody, or control of the applicant or cooperating individual, as the case may be, wherever they are located; and

(3)(A) in the case of a cooperating individual—

(i) making himself or herself available for such interviews, depositions, or testimony in connection with the civil action as the claimant may reasonably require; and

(ii) responding completely and truthfully, without making any attempt either falsely to protect or falsely to implicate any person or entity, and without intentionally withholding any potentially relevant information, to all questions asked by the claimant in interviews, depositions, trials, or any other court proceedings in connection with the civil action; or

(B) in the case of an antitrust leniency applicant, using its best efforts to secure and facilitate from cooperating individuals covered by the agreement the cooperation described in clauses (i) and (ii) and subparagraph (A).

(c) TIMELINESS.—If the initial contact by the antitrust leniency applicant with the Antitrust Division regarding conduct covered by the antitrust leniency agreement occurs after a State, or subdivision of a State, has issued compulsory process in connection with an investigation of allegations of a violation of section 1 or 3 of the Sherman Act or any similar State law based on conduct covered by the antitrust leniency agreement or after a civil action described in subsection (a) has been filed, then the court shall consider, in making the determination concerning satisfactory cooperation described in subsection (b), the timeliness of the applicant's initial cooperation with the claimant.

(d) CONTINUATION.—Nothing in this section shall be construed to modify, impair, or supersede the provisions of sections 4, 4A, and 4C of the Clayton Act relating to the recovery of costs of suit, including a reasonable attorney's fee, and interest on damages, to the extent that such recovery is authorized by such sections.

SEC. 214. RIGHTS, AUTHORITIES, AND LIABILITIES NOT AFFECTED.

Nothing in this subtitle shall be construed to—

(1) affect the rights of the Antitrust Division to seek a stay or protective order in a civil action based on conduct covered by an antitrust leniency agreement to prevent the cooperation described in section 213(b) from impairing or impeding the investigation or prosecution by the Antitrust Division of conduct covered by the agreement;

(2) create any right to challenge any decision by the Antitrust Division with respect to an antitrust leniency agreement; or

(3) affect, in any way, the joint and several liability of any party to a civil action described in section 213(a), other than that of the antitrust leniency applicant and cooperating individuals as provided in section 213(a) of this title.

SEC. 215. INCREASED PENALTIES FOR ANTITRUST VIOLATIONS.

(a) RESTRAINT OF TRADE AMONG THE STATES.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended by—

(1) striking ''$10,000,000'' and inserting ''$100,000,000'';

(2) striking ''$350,000'' and inserting ''$1,000,000''; and

(3) striking ''three'' and inserting ''10''.

(b) MONOPOLIZING TRADE.—Section 2 of the Sherman Act (15 U.S.C. 2) is amended by—

(1) striking ''$10,000,000'' and inserting ''$100,000,000'';

(2) striking ''$350,000'' and inserting ''$1,000,000''; and

(3) striking ''three'' and inserting ''10''.

(c) OTHER RESTRAINTS OF TRADE.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended by—

(1) striking ''$10,000,000'' and inserting ''$100,000,000'';

(2) striking ''$350,000'' and inserting ''$1,000,000''; and

(3) striking ''three'' and inserting ''10''.

Subtitle B—Tunney Act Reform

SEC. 221. PUBLIC INTEREST DETERMINATION.

(a) CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the purpose of the Tunney Act was to ensure that the entry of antitrust consent judgments is in the public interest; and

(B) it would misconstrue the meaning and Congressional intent in enacting the Tunney Act to limit the discretion of district courts to review antitrust consent judgments solely to determining whether entry of those consent judgments would make a ''mockery of the judicial function''.

(2) PURPOSES.—The purpose of this section is to effectuate the original Congressional intent in enacting the Tunney Act and to ensure that United States settlements of civil antitrust suits are in the public interest.

(b) PUBLIC INTEREST DETERMINATION.—Section 5 of the Clayton Act (15 U.S.C. 16) is amended—

(1) in subsection (d), by inserting at the end the following: ''Upon application by the United States, the district court may, for good cause (based on a finding that the expense of publication in the Federal Register exceeds the public interest benefits to be gained from such publication), authorize an alternative method of public dissemination of the public comments received and the response to those comments.'';

(2) in subsection (e)—

(A) in the matter before paragraph (1), by—

(i) striking ''court may'' and inserting ''court shall''; and

(ii) inserting ''(1)'' before ''Before''; and

(B) striking paragraphs (1) and (2) and inserting the following:

''(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

''(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

''(2) Nothing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.''; and

(3) in subsection (g), by inserting ''by any officer, director, employee, or agent of such defendant'' before '', or other person''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1086.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1086, the Standards Development Organization Advancement Act of 2003. This legislation contains several important revisions to America's antitrust laws.

Title I of the legislation contains limited antitrust protection for standards development organizations. Technical standards play a critical role in fostering competition and promoting public health and safety. Without standards there would be no compatibility among broad categories of products and less confidence in a range of building, fire, and safety codes that promote the public welfare.

In the United States, most standards development is conducted by private nonprofit organizations known as Standards Development Organizations, or SDOs. This approach reflects the fact that private organizations are better able to keep up with the rapid pace of technological change. Congress has recognized the importance of SDOs and requires Federal agencies to adopt standards issued by these organizations whenever possible.

Over the last several years, the critical efforts of SDOs have been undermined by sometimes frivolous antitrust lawsuits. The growing frequency of these claims against SDOs stifles their ability to obtain technical information, hampers their effectiveness, and undermines the public goals that the SDOs advance.

I introduced this bill to remedy this problem. This legislation codifies the rule of reason for antitrust scrutiny of SDOs which requires courts to assess

whether the standards-setting activities of an SDO are procompetitive. It also limits the SDOs civil liability to actual, rather than treble, damages, and provides for the recovery of attorneys fees to substantially prevailing parties in antitrust actions against these organizations.

To receive these limited safeguards, H.R. 1086 requires the SDO to inform Federal antitrust authorities of the scope and nature of their activities and to devise and issue standards in a fair and open process prescribed by the legislation.

The Senate amendment we consider today also contains important bipartisan provisions that deter antitrust violations while strengthening antitrust enforcement efforts. Title II harmonizes the treatment of criminal antitrust offenders and other white collar criminals by increasing maximum prison terms for criminal antitrust violations from 3 to 10 years while increasing maximum individual fines for antitrust violations from $350,000 to $1 million. These provisions send an unmistakable message to those who consider violating the antitrust laws that if they are caught they will spend much more time considering the consequences of their actions within the confinement of their prison cells.

Title II also increases maximum corporate fines for antitrust violations from $10 million to $100 million. This considerable increase sends a clear signal to corporate officers and board members that a decision to violate antitrust laws will be severely punished.

Title II of the legislation also contains important modifications to the antitrust leniency program used by the Department of Justice to facilitate the detection and prosecution of antitrust violations. Under existing practice, parties that cooperate with Federal antitrust authorities to uncover violations may not be subject to government prosecution, but remain liable in civil actions brought by private parties. The bill creates an additional incentive for corporations to disclose antitrust violations by limiting their liability in related civil claims to actual damages. Furthermore, while a cooperating party would be liable only for damages attributable to that party's conduct, noncooperating conspirators will remain jointly and severally liable for treble damages for the misconduct of all of the conspirators.

As a result, the full scope of antitrust remedies against nonparticipating parties will remain available to the government and private antitrust plaintiffs.

Finally, the legislation clarifies the Tunney Act. This act gives Federal district courts some authority to review the merits of civil antitrust settlements with the United States before they enter final consent decrees.

□ 1515

Specifically, district courts in which an antitrust suit is brought must assess whether these decrees are ''in the public interest.'' The bill provides legislative guidance to the district courts by listing specific factors to be considered during this analysis. In addition, the legislation facilitates the transmission of comments received during Tunney Act proceedings by allowing Federal judges to order their publication by electronic or other means.

Mr. Speaker, H.R. 1086 contains important provisions that enhance the effectiveness of the antitrust laws and the authority of antitrust enforcement agencies to implement them.

The legislation is truly bipartisan and bicameral in nature, and while several people deserve credit for this legislation, I would like to recognize the late Committee on Science Chief Counsel Barry Beringer. Barry's hard work and dedication brought this legislation to the floor last year, and his decades of dedication and service brought great credit to this House. I urge my colleagues to support the legislation.

Pursuant to the general leave already granted, I will be placing into the RECORD a statement of legislative history that the gentleman from Michigan (Mr. CONYERS) and I have agreed to, and I ask that it appear in the RECORD at the end of my statement.

SUPPLEMENTAL LEGISLATIVE HISTORY FOR H.R. 1086, THE ''STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003'' AS ENROLLED BY THE HOUSE AND SENATE

When the House passed H.R. 1086, the ''Standards Development Organization Advancement Act of 2003,'' it only contained provisions directed at including standards-development activities undertaken by certain standards development organizations (SDOs) within the treatment accorded certain joint ventures by the National Cooperative Research and Production Act ''NCRPA.'' The Senate-passed version of H.R. 1086, which substantially incorporates the provisions of the House-passed version in its Title I, also contains an additional title, the ''Antitrust Criminal Penalty Enhancement and Reform Act of 2003.'' The following legislative history is submitted on behalf of the House Committee on the Judiciary jointly by Chairman Sensenbrenner and Ranking Member Conyers:

Section-by-Section Analysis of H.R. 1086

TITLE I—''STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003''

Section 101 contains the short title.

Section 102 sets forth the findings and purposes of the bill as they relate to standards development activities and standards development organizations (SDOs). The findings explain the purpose(s) behind the original enactment and subsequent amendment of the National Cooperative Research and Production Act (NCRPA). The findings also discuss how passage of the National Technology Transfer and Advancement Act of 1995 (NTTAA) unintentionally heightened the vulnerability of SDOs to antitrust litigation. The findings also explain how SDOs generally do not stand to benefit from any antitrust violation that might occur during the voluntary consensus standards development process. Finally, this section finds that continuing to subject SDOs to potential treble damages liability under the antitrust laws could impede pro-competitive standards development activity.

Section 103 adds to the existing definitions contained in section 2 of the NCRPA: The term ''standards development activity'' is defined as ''any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.'' The definition of ''standards development activity'' excludes the following activities: exchanges of information, including competitively-sensitive information, among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required in order to develop or promulgate a voluntary consensus standard or in order to use the standard in conformity assessment activities; agreements or other conduct that would allocate a market among competitors; and agreements or conspiracies that would set or restrain prices of any good or service.

The definition of ''standards development activity'' is broad enough to encompass any action taken by an SDO in ''developing, promulgating, revising, amending. reissuing, interpreting or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the SDO.'' The ''Standards Development Organization Advancement Act of 2003'' is not intended to change or influence existing intellectually property policies currently utilized by various SDOs (including but not limited to, patent searches), nor to affect or influence new intellectual property policies that may be developed in the future. Such policies are vitally important to ensuring a level playing field among all users of a standard that incorporates patented technology. In addition, the legislation is not intended to change or alter the application of existing antitrust laws with respect to intellectual property. The legislation also seeks to encourage disclosure by intellectual property rights owners of relevant intellectual property rights and proposed licensing terms. It further encourages discussion among intellectual property rights owners and other interested standards participants regarding the terms under which relevant intellectual property rights would be made available for use in conjunction with the standard or proposed standard.

The term ''standards development organization'' is defined as ''a domestic or international organization that plans, develops, establishes or coordinates voluntary consensus standards . . . in a manner consistent with Office Management and Budget (OMB) Circular Number A–119, as revised on February 10, 1998.'' The definition includes only the voluntary consensus standards body conducting the particular standards development activity, and does not include firms participating in the standards development activity.

The term ''technical standard'' is defined by reference to section 12(d)(4) of the NTTAA. The term ''voluntary consensus standard'' is defined with reference to revised OMB Circular A–119.

Section 104 amends section 3 of the NCRPA to apply the rule of reason standard to SDOs with respect to covered standards development activities in which they are engaged.

Section 105 amends section 4 of the NCRPA to include properly structured standard-setting activity undertaken by SDOs as eligible for the protections set forth in that section, provided that such activities have been previously disclosed to the antitrust agencies in

accordance with the requirements of the NCRPA, as amended.

Section 106 amends section 5 of the NCRPA to include SDOs, in their involvement in covered standards development activities, within the scope of the NCRPA scheme for awarding attorneys' fees to substantially prevailing parties.

Section 107 amends section 6 of the NCRPA to apply the same disclosure requirements to SDOs as a condition for obtaining the detrebling of damages. In order to obtain the detrebling, the required disclosures must occur not later than 90 days after either the date the SDO commences the standards development activity or the date H.R. 1086 is enacted, whichever is later.

Section 108 provides that the legislation shall not be construed to alter or modify the antitrust treatment of parties participating in a covered standards development activity, except for the SDO conducting the activity, nor of anyone engaged in standard-setting processes that are not within the scope of the legislation.

TITLE II—''ANTITRUST CRIMINAL PENALTY ENHANCEMENT AND REFORM ACT OF 2003''

Subtitle A—Antitrust Enforcement Enhancements and Cooperation Incentives

Section 201 contains the short title.

Sections 211–214 strengthen the Antitrust Division's corporate criminal leniency program, by providing that an antitrust leniency applicant who cooperates satisfactorily with the Division in its criminal investigation and prosecution can also receive limited damages exposure in a related private civil action in exchange for satisfactorily cooperating with the private plaintiffs. As Senator Kohl, the co-sponsor of S. 1797 (which included the leniency provisions) stated, these provisions ''will remove a significant disincentive to those who would be likely to seek criminal amnesty and should result in a substantial increase in the number of antitrust conspiracies being detected.'' (Statement of Senator Kohl (co-sponsor of S. 1797) upon introduction of the measure, 149 CONG. REC. S13520 (daily ed. October 29, 2003)).

Section 211 states that sections 211–214 of the title shall sunset five years after the date of enactment, except with respect to ''an applicant who has entered into an antitrust leniency agreement on or before'' the sunset date.

Section 212, defines: ''Antitrust Division'' as ''the United States Department of Justice Antitrust Division''; ''antitrust leniency agreement'' as ''a leniency letter agreement, whether conditional or final, between a person and the Antitrust Division pursuant to the Corporate Leniency Policy of the Antitrust Division in effect on the date of execution of the agreement; ''antitrust leniency applicant'' as ''the person who has entered into the agreement'' described above; ''claimant'' as a ''person or class that has brought, or on whose behalf has been brought, a civil action alleging a violation of section 1 or 3 of the Sherman Act (Section 1 of the Sherman Act (15 U.S.C. §1) prohibits contracts or combinations in restraint of trade; section 3 (15 U.S.C. §3) applies §1 to the District of Columbia and to territories) or any similar State law,'' but specifically excludes plaintiffs who are states or subdivisions of states with respect to civil actions brought to recover damages sustained by the state or subdivision (i.e., civil actions not brought as parens patriae); ''cooperating individual'' as ''a current or former director, officer, or employee of the antitrust leniency applicant who is covered by the agreement''; and ''person'' as the term is defined in subsection (a) of the first section of the Clayton Act (15 U.S.C. §12).

Section 213 states that conduct covered by a ''currently effective antitrust leniency agreement'' will subject an antitrust leniency applicant and its cooperating individuals, as defendants in a private or state enforcement antitrust action, to liability only for the actual portion of damages suffered by the claimant ''attributable to the commerce done by the applicant in the goods or services affected by the violation'' so long as the court in which the civil action is brought determines ''that the applicant or cooperating individual . . . has provided satisfactory cooperation to the claimant. . . .'' The section does not alter existing provisions of the antitrust laws with respect to recovery of costs, including reasonable attorneys' fees.

Satisfactory cooperation shall include ''providing a full account to the claimant of all facts known to the applicant or cooperating individual . . . that are potentially relevant to the civil action'' and ''furnishing all documents or other items that are potentially relevant to the civil action . . . that are in the possession, custody, or control of the applicant or cooperating individual . . . wherever they are located.'' The section's use of the term ''potentially relevant'' is intended to preclude a parsimonious view of the facts or documents to which a claimant is entitled. Documents or other items in the applicant's possession, custody, or control must be produced even if they are otherwise arguably located outside the jurisdiction of the U.S. courts.

If the leniency applicant has applied for a leniency agreement ''after a State, or subdivision of a State, has issued compulsory process in connection with an investigation of allegations of violations of either sections 1 or 3 of the Sherman Act or any similar State law based on conduct covered by the antitrust leniency agreement or after a civil action . . . has been filed,'' the court must consider the timeliness of the applicant's initial cooperation with the claimant. Thus, this section is not intended to allow antitrust defendants in a private lawsuit or state parens patriae investigation or enforcement action to apply to the Department of Justice at the last minute to avoid full treble-damage liability.

The court in which the civil action is brought is empowered to determine whether the necessary cooperation has occurred. The power of the court is the same whether the court is a state or federal court and whether the antitrust claims have been brought under state or federal laws. That cooperation includes providing full factual disclosure of all facts, documents, or other things that are relevant or potentially relevant. Because many leniency agreements may be with organizations rather than individuals, the section provides that any antitrust leniency applicant must use its ''best efforts'' to obtain and facilitate cooperation from individuals. Recognizing that there are discovery tools that plaintiffs can use in discovery of entities, this section is intended to require cooperation of entities in such discovery. For example, under Fed. R. Civ. P. 30(b)(6), a corporation or another entity may be noticed or subpoenaed to provide a corporate representative to testify on its behalf. If the leniency applicant is an organization, individuals employed by the organization may also qualify for reduced private damages exposure if they cooperate to the court's satisfaction.

Section 214 clarifies that the subtitle does not affect the right of the Antitrust Division ''to seek a stay or protective order in a civil action based on conduct covered by an antitrust leniency agreement,'' to prevent the leniency applicant's cooperation ''from impairing or impeding'' a Division investigation or prosecution. It also states that the subtitle does not create any right to challenge the decision of the Division concerning whether to grant a leniency agreement; nor does it affect the joint and several liability of any of the parties to civil antitrust actions covered by the subtitle other than the ''antitrust leniency applicant and cooperating individuals. . . .'' In combination with section 213, the rule of construction in this section preserving the application of joint and several liability as to all defendants other than the leniency applicant provides an additional incentive to corporations and individuals who have violated the antitrust laws to be the first to cooperate with the government and private litigants. While the antitrust leniency applicant who cooperates with civil plaintiffs will be liable only for single damages caused by its own unlawful conduct, the remaining defendants will be fully, jointly and severally liable for the treble damages the conspiracy caused, minus only the amount actually paid by the leniency applicant. This could have the effect of increasing the amount of damages the remaining defendants are ultimately required to pay.

Section 215 increases, for violations of sections 1–3 of the Sherman Act, statutory maximum monetary penalties from $350,000 to $1 million for individuals and business organizations other than corporations, and from $10 million to $100 million for corporations; and increases maximum jail sentences from three years to 10 years. These increases reflect Congress' belief that criminal antitrust violations are serious white collar crimes that should be punished in a manner commensurate with other felonies. This section will require the United States Sentencing Commission to revise the existing antitrust sentencing guidelines to increase terms of imprisonment for antitrust violations to reflect the new statutory maximum. No revision in the existing guidelines is called for with respect to fines, as the increases in the Sherman Act statutory maximum fines are intended to permit courts to impose fines for antitrust violations at current Guideline levels without the need to engage in damages litigation during the criminal sentencing process.

For example, Congress does not intend for the Commission to revisit the current presumption that twenty percent of the volume of commerce is an appropriate proxy for the pecuniary loss caused by a criminal antitrust conspiracy. This presumption is sufficiently precise to satisfy the interests of justice, and promotes efficient and predictable imposition of penalties for criminal antitrust violations. Comments to the guidelines provide that if the actual overcharge caused by cartel behavior can be shown to depart substantially from the presumed ten percent overcharge that underlies the twenty percent presumption, this should be considered by the court in setting the fine within the guideline fine range.

Subtitle B—Tunney Act Reform

Section 221 makes clear that Congress intends for the district court reviewing an antitrust consent decree to go beyond merely considering whether entry of the decree would ''make a mockery of the judicial function,'' (this is currently the standard in the Court of Appeals for the D.C. Circuit) and that the purpose of this section is ''to effectuate the original Congressional intent in enacting the Tunney Act. . . .''

The Public Interest Determination provision first amends the existing Tunney Act by allowing, for good cause shown, dissemination of public comments on proposed antitrust consent decrees and responses to them by an alternative to publication in the Federal Register; replaces ''may'' with ''shall'' in its directions to district courts reviewing consent decrees; adds to the factors that a reviewing court must consider, in determining whether the proposed decree is in the

public interest, ''whether its terms are ambiguous'' and ''the impact of entry of such judgment upon competition in the relevant market or markets''; clarifies that nothing in the section shall be construed as requiring the court to hold an evidentiary hearing or to permit anyone to intervene; and specifies that the written or oral communications made on behalf of a defendant, which the defendant is required to describe to the court under section 5(g) of the Clayton Act, include communications ''by any officer, director, employee, or agent of such defendant, or other person.''

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1086, the Standards Development Organization Advancement Act of 2003. This measure has strong bipartisan support in the Committee on the Judiciary, the House and the Senate, as is evidenced by its cosponsors. It provides important and significant improvements to our antitrust laws. We passed the bill last year, and it passed the Senate more recently with amendments, and we are here today to approve the identical version of the bill.

Title I of the bill recognizes that organizations set thousands of standards that keep us safe and provide uniformity for everything from fire protections to computer systems to building construction. When all DVDs are the same size, competitors can manufacture to the standard and compete. When all plugs are the same size, anybody can sell a lamp without having to insist on a particular brand name because they know all lamps have the standard plugs. Without the relief in this bill, industries may be reluctant to agree on a standard out of fear that treble antitrust damages may be available.

So this title provides a common sense safe harbor for standards development organizations. Those who voluntarily disclose their activities to Federal antitrust authorities will only be subject to single damages should a successful antitrust suit arise. Those who refuse to disclose their activities or those who take actions beyond their disclosures will be subject to the treble damages under the antitrust statutes.

The bill does not exempt anyone from antitrust laws but applies the rule of reason to standards development organizations that are acting in an open and forthright manner. If a violation is found, the organizations are still liable for damages, but single damages, rather than treble damages, which would now apply. However, organizations that commit specific serious antitrust violations, such as conspiring about standards on price, market share or territory division, will still be fully liable for their actions.

The rationale for the more favorable treatment of standards development organizations under these circumstances is that standards development organizations, as nonprofits that serve a cross-section of an industry, are unlikely themselves to engage in anticompetitive activities; and, without the risk of treble damages, they can be more innovative in their effort to develop standards which enhance product quality and safety while reducing costs.

Title II of the bill, the Antitrust Criminal Penalty Enhancement and Reform Act of 2003, increases the maximum criminal penalties for antitrust violations so that the disparity is eliminated between the treatment of criminal white collar offenses and antitrust criminal offenses.

This title also incorporates a leniency provision that encourages participants in an illegal conspiracy to turn in their co-conspirators. This provision allows the Department of Justice to limit the damages of the cooperating company's civil liability to actual, rather than treble, damages. The Department of Justice will only grant such leniency if the company provides adequate and timely cooperation to both the government and any subsequent private plaintiffs in civil suits. And because the remaining conspirators remain jointly and severally liable to treble damages, the victims' potential recovery is not reduced by leniency in this situation.

Finally, Title II of the bill reforms the Tunney Act to strengthen the Act's requirements that courts review antitrust consent decrees in a meaningful manner, not simply as a rubber stamp to such decrees.

H.R. 1086 is an important bill that modernizes and enhances enforcement of U.S. antitrust laws. I would like to commend the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Michigan (Ranking Member CONYERS) for their leadership and cooperative efforts on this bill, and I urge my colleagues to support it.

Mr. BOEHNER. Mr. Speaker, I submit the following letters for the RECORD:

COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES,
Washington, DC, May 28, 2004.

Hon. WILLIAM M. THOMAS,
Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN THOMAS: Thank you for your May 17, 2004 letter regarding H.R. 3908, the ''To provide for the conveyance of the real property located at 1081 West Main Street in Ravenna, Ohio.'' I agree that the Committee on Ways and Means has jurisdiction over matters concerning the Social Security Act and the effect this bill would have on provisions within your Committee's jurisdiction. While these provisions are within the jurisdiction of the Committee on Ways and Means, I appreciate your willingness to work with me in moving H.R. 3908 forward without the need for additional legislative consideration by your Committee.

I agree that this procedural route should note be construed to prejudice the jurisdictional interest and prerogatives of the Committee on Ways and Means on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to your Committee in the future.

I thank you for working with me regarding this matter and look forward to continuing our work and cooperation on this bill and similar legislation. This letter and your response will be included in the Congressional Record during the floor consideration of this bill. If you have questions regarding this matter, please do not hesitate to call me.

Sincerely,

JOHN BOEHNER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, May 17, 2004.

Hon. JOHN A. BOEHNER,
Chairman, Committee on Education and the Workforce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BOEHNER: I am writing concerning H.R. 3908, ''To provide for the conveyance of the real property located at 1081 West Main Street in Ravenna, Ohio,'' which was introduced on March 4, 2004, and referred to the Committee on Education and the Workforce.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning the Social Security Act. Sec. 1 of H.R. 3908 would convey a property purchased using federal funds authorized under Titles III and IX of the Social Security Act, and thus falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 3908, and would ask that a copy of our exchange of letters on this matter be included in the CONGRESSIONAL RECORD during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

Mr. CONYERS. Mr. Speaker, I rise in support of H.R. 1086, the standards Development Organization Advancement Act of 2003. This measure has enjoyed bipartisan support in the Judiciary Committee, the House, and the Senate. It provides important and significant improvements to our antitrust laws.

Title I of the bill recognizes that standards development organizations set thousands of standards that keep us safe and provide uniformity for everything from fire protections to computer systems to building construction. This Title provides a common sense safe harbor for these organizations. Those that voluntarily disclose their activities to federal antitrust authorities will only be subject to single damages should a lawsuit later arise. Those who refuse to disclose their activities, or those who take actions beyond their disclosure, will still be subject to treble damages under the antitrust statutes.

This bill does not exempt anyone from the antitrust laws, but it does apply the rule of reason to standards development organizations. Therefore the pro-competitive market effects will be balanced against the anti-competitive market effects of an action before a violation of the antitrust laws is found. Organizations that commit per se violations—making agreements or standards about price, market share or territory division, for example—will still be fully liable for their actions.

The rationale for such favored treatment is that standards development organizations, as non-profits that serve a cross-section of an industry, are unlikely themselves to engage in anti-competitive activities. However, if free from the threat of treble damages, they can increase efficiency and facilitate the gathering of a wealth of technical expertise from a wide array of interests to enhance product quality and safety while reducing costs.

Title II, the Antitrust Criminal Penalty Enhancement and Reform Act of 2003, increases the maximum criminal penalties for antitrust violations so that the disparity is eliminated between the treatment of criminal white collar offenses and antitrust criminal violations. At this point, I do not see any reason to revise downward the current Sentencing Guideline presumption that twenty percent of the volume of commerce is an appropriate proxy for the pecuniary loss caused by a criminal antitrust conspiracy.

This Title also incorporates a leniency provision that encourages participants in illegal cartels to turn against their co-conspirators. This provision allows the Department of Justice to limit the damages of the cooperating company's civil liability to actual, rather than treble damages. The Department of Justice will only grant such leniency if the company provides adequate and timely cooperation to both the government and any subsequent private plaintiffs in civil suits. And because the remaining conspirators remain jointly and severally liable for treble damages, the victims' potential total recovery is not reduced by leniency applicant's reduced damages. The central purpose of this provision is to bolster the leniency program already utilized by the Antitrust Division so that antitrust prosecutors can more effectively go after antitrust violators. The Department of Justice has assured me that it will always use these new tools cognizant of the needs of victims.

Finally, Title II of the bill reforms the Tunney Act to strengthen the Act's requirement that courts review antitrust consent decrees in a meaningful manner, rather than simply "rubber-stamping" such decrees.

H.R. 1086 is an important bill that modernizes and enhances the enforcement of U.S. antitrust laws. I'd like to thank the Chairman for his cooperative efforts on this bill and in writing the supplemental legislative history. We worked hard together on both and I'm very proud of the final product. I urge my colleagues to support this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as a co-sponsor of this legislation, I support H.R. 1086, "The Standards Development Organization Advancement Act of 2003."

This Act amends the National Cooperative Standards Development Act to provide antitrust protections to specific activities of standard development organizations (SDOs) relating to the development of voluntary consensus standards.

Among other provisions, H.R. 1086 amends the NCRA to limit the recovery of antitrust damages against SDOs if the organizations pre-disclose the nature and scope of their standards development activity to the proper antitrust authorities. H.R. 1086 also amends the NCRA to include SDOs in the framework of NCRA that awards reasonable attorneys' fees to the substantially prevailing party.

The provisions of H.R. 1086 protect SDOs, and in turn, SDOs help protect consumers and the public. SDOs are non-profit organizations that establish voluntary industry standards. These standards ensure competition within various industries, promote manufacturing compatibility, and reduce the risk that consumers will be stranded with a product that is incompatible with products from other manufacturers.

The nature of the standards development process requires competing companies to bring their competitive ideas to the voluntary standards development process. When one of the companies believes its market position has been compromised by the standards development process that company will likely resort to litigation. It is not uncommon for the SDO to be named as a Defendant. For non-profit organizations like SDOs, litigation can be very costly and disruptive to their operations, and treble antitrust damages can be financially crippling.

Under H.R. 1086, the recovery of damages against SDOs is limited if the organizations pre-disclose the nature and scope of their standards development activity to the proper antitrust authorities. Furthermore, SDOs are only liable for treble damages under antitrust laws if they fail to disclose the nature and scope of their voluntary standards setting activity.

H.R. 1086 strikes a good balance. It does not grant SDOs full antitrust immunity, but it provides SDOs with protection from treble damages when they provide proper disclosure.

H.R. 1086 also benefits the consumer. It enables the SDOs to develop industry standards that promote price competition, intensify corporate rivalry, and encourage the development of new products.

Mr. Speaker, I support H.R. 1086.

Mr. SCOTT of Virginia. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time as well.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1086.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

ANABOLIC STEROID CONTROL ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3866) to amend the Controlled Substances Act to provide increased penalties for anabolic steroid offenses near sports facilities, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anabolic Steroid Control Act of 2004".

SEC. 2. INCREASED PENALTIES FOR ANABOLIC STEROID OFFENSES NEAR SPORTS FACILITIES.

(a) IN GENERAL.—Part D of the Controlled Substances Act is amended by adding at the end the following:

ANABOLIC STEROID OFFENSES NEAR SPORTS FACILITIES

"SEC. 424. (a) Whoever violates section 401(a)(1) or section 416 by manufacturing, distributing, or possessing with intent to distribute, an anabolic steroid near or at a sports facility is subject to twice the maximum term of imprisonment, maximum fine, and maximum term of supervised release otherwise provided by section 401 for that offense.

"(b) As used in this section—

"(1) the term 'sports facility' means real property where athletic sports or athletic training takes place, if such property is privately owned for commercial purposes or if such property is publicly owned, but does not include any real property described in section 419;

"(2) the term 'near or at' means in or on, or within 1000 feet of; and

"(3) the term 'possessing with intent to distribute' means possessing with the intent to distribute near or at a sports facility.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents for Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 423 the following new item:

"Sec. 424. Anabolic steroid offenses near sports facilities.".

SEC. 3. SENTENCING COMMISSION GUIDELINES.

The United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines with respect to offenses involving anabolic steroids;

(2) consider amending the Federal sentencing guidelines to provide for increased penalties with respect to offenses involving anabolic steroids in a manner that reflects the seriousness of such offenses and the need to deter anabolic steroid use; and

(3) take such other action that the Commission considers necessary to carry out this section.

SEC. 4. AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (41)—

(A) by realigning the margin so as to align with paragraph (40); and

(B) by striking subparagraph (A) and inserting the following:

"(A) The term 'anabolic steroid' means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone), and includes—

"(i) androstanediol—

"(I) 3β,17β-dihydroxy-5α-androstane; and

"(II) 3α,17β-dihydroxy-5α-androstane;

"(ii) androstanedione (5α-androstan-3,17-dione);

"(iii) androstenediol—

"(I) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);

"(II) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);

"(III) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene); and

"(IV) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);

"(iv) androstenedione—

"(I) 1-androstenedione ([5α]-androst-1-en-3,17-dione);

"(II) 4-androstenedione (androst-4-en-3,17-dione); and